

## REMARKS

Claims 1, 3-5, 7-10, 12, 14-25 and 27-35 are pending. In accordance with the foregoing, claim 1 is amended to positively recite the first electrode surface and the second electrode surface of the electrode. Claim 24 is amended to correct an informality. New claim 36 is added and supported, for example, by paragraph 13 of the originally-filed specification. Claims 2, 6, 11, 13, and 26 were previously canceled without prejudice or disclaimer of the subject matter contained therein.

In the above-referenced Office Action, claims 1, 3-5, 7-10, 12, 14-25 and 27-35 stand rejected. The rejection is premised on the proposition that Mulier (U.S. 5,906,613) discloses the features substantially as claimed. In a previous response filed November 14, 2006, Applicant articulated distinctions between the pending claims and the cited reference thus indicating the reference insufficient to meet the claims. The content of the previous response is incorporated by reference in its entirety. In the subsequent office action mailed March 18, 2008, the rejections based on the Mulier reference were not maintained. Since the rejection based on the Mulier reference is now being maintained, and the Applicant was not given opportunity to re-address this rejection, Applicant respectfully requests reconsideration of the finality of the pending office action. Applicant respectfully traverses the rejections and requests a withdrawal of all rejections as set forth below.

Claims 1, 4, 7, 12, 15, 23-25 and 30 stand rejected under 35 U.S.C. 102(b) as being anticipated by Mulier (U.S. 5,906,613). As amended, claim 1 clearly sets forth "an electrode comprising a first surface and a second surface". Contrary to the Examiner's assertion, Mulier fails to teach, among other things, an electrode having a first electrode surface and a second electrode surface where the first electrode surface encloses a cavity filled with an ionically conductive medium and a first current density is generated at the first electrode surface smaller than the current density generated at the second electrode

surface. The Examiner has interpreted the ring electrode 520 as the second electrode surface and the helical electrode 502 as the first electrode surface. It would be readily apparent to one having ordinary skill in the art that the ring electrode and the helical electrode are two separate electrodes and not first and second surfaces of an electrode. Mulier fails to teach, suggest or imply, an electrode having two surfaces where the current density at the first surface is smaller than the current density at the second surface when current is delivered to the electrode. For at least this reason, Applicant respectfully asserts the rejection is improper and should be withdrawn.

Claims 3, 8, 10, 14, 16, 17-20, 21, 22, 28-29, 31-34 and 35 stand variously rejected under 35 U.S.C. 103(a) as being unpatentable over Mulier in view of additionally cited references. None of the additionally cited references remedy the deficiency of Mulier relating to an electrode having first and second surfaces where the first surface has a smaller current density than the second electrode surface when current is delivered to the electrode. Applicant respectfully requests withdrawal of the rejection.

Applicant asserts that the remarks presented herein are fully responsive to the Office Action and are sufficient to overcome the rejections presented in the Office Action. However, there may be other arguments to be made as to why the pending claims are patentable. Applicant does not concede any such arguments by having not presented them herein. Applicant respectfully asserts that the present claims are in condition for allowance. Withdrawal of the instant rejections and issuance of a Notice of Allowance is respectfully requested.

Should any issues remain outstanding, the Examiner is urged to telephone the undersigned to expedite prosecution. The Commissioner is authorized to charge any deficiencies and credit any overpayments to Deposit Account No. 13-2546.

Respectfully submitted,

Date: November 24, 2008

/Carol F. Barry/  
Carol F. Barry, Reg. No.41,611  
Telephone: (763) 526-0932  
Customer No. 27581